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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,475	11/01/2001	Ricardo Alba Mariano	0004-019	5453

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EXAMINER
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HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/029,475

Applicant(s)

MARIANO, RICARDO ALBA

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 24-28 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 11, 12 and 22 is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 13, 15-17, 21, 23 and 29-39 is/are rejected.
- 7) ☒ Claim(s) 4-5, 7, 9-10, 14, 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 36-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 36-39 are viewed as being indefinite since the positively recited limitations i.e., cover, door, bracket etc., are now being positioned with respect to the non-positively claimed "opening". Such referencing e.g., in claim 36, "said cover will abut an edge of said opening" or in claim 37, "said door is substantially the same as the shape of said opening" is deemed to constitute an unbased-comparison since the positive limitations "cover" & "door" are dependent upon the structure of a non-positively claimed article {opening}. Additionally, in claim 39, the phrase "a second biasing member" is unclear and confusing as presently recited since there is no first biasing member associated with claim 1.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:  
A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. Claims 1-3, 8, 13, 15-17, 21, 23 & 29-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore et al., [U.S. Patent No. 5,683,030]. Moore (figures 1-5B) teaches of a door (see bottom system as depicted in fig. 1 for example) comprising: a

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bracket (30) having a first portion (bottom of 30) and a second portion (above the bottom and below opening 31), the first portion adapted to facilitate pivotal engagement with a housing (20) via hinge (37) [it is noted that the housing may be viewed as a “computer housing” in the sense that a computer may be situated within the prior art housing in as much as the “computer housing” is not positively being claimed in combination with the door] whereby the bracket can pivot about an axis; and a cover (40) elastically mounted to the second portion of the bracket via tape (42) [*elastically mounted in the sense that the tape is “capable of adapting to change or a variety of circumstances: flexible” – Webster’s II New Riverside University Dictionary 1994 – as such, it is viewed that the tape does exhibit an elastic or flexible property*], whereby the cover is supported by the bracket. As to claim 2, the cover includes a back surface (note figs. 5A-5B for an example – the surface referenced as “40”) and the bracket is elastically covered to the surface [As previously indicated the surface referenced as “40” in fig. 5B is viewed as the “back surface” – depends upon viewed orientation and the examiner has stated the position on what is construed as the back surface]. As to claim 3, the door further comprising a biasing member (viewed as magnets 50 – magnetic attraction between the cover and bracket) disposed to urge the cover against the bracket [it is viewed that the elements 50 are appropriate as recited above in the further sense that when the cover and bracket are in close proximity to each other, the element on the cover will urge the cover to engage the element on the bracket due to the elements attractive forces and hence satisfy the claimed limitation]. As to claim 8, the cover includes an alignment feature (viewed here as hook member 50) and the bracket includes a complementary alignment feature (viewed here as loop member 50) wherein the alignment features moveably engage one another (fig. 5B to

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fig. 5A) [hook and loop elements are viewed as being “alignment features” until further structural aspects are positively recited in the claim]. As to claims 13 and 16-17, the cover may include a beveled edge (such as the beveled edge of cover (40) as depicted in fig. 4) [it is noted that this cover is circular in shape – perimeter edge is angular as opposed to straight]. As to claim 15, the bracket is shaped such that the axis will be disposed adjacent the opening of a housing (see figs. 4 & 5A for an example – in as much as the opening and housing are not positively claimed limitations). As to claims 21 & 23, the bracket and cover form an assembly and the assembly includes a smooth rear surface (such as the lower surface of (30)) which is capable of abutting devices that may move through the opening as best understood, wherein the assembly is substantially free of any member projecting rearward of the rear surface. As to claims 29-34, the bracket and cover were previously established; the means for elastically mounting the cover to the bracket is viewed as the tape (42) [see note below concerning the 112(2) / 112(6) issue]. The means for biasing the cover against the bracket was previously established. The means for loosely aligning the cover with the bracket is the hook and loop fastener (50). The means for pivotally connecting the bracket to a housing is (37). The pivoting axis of the bracket being spaced apart from the cover, while the cover is solely supported via the bracket. As to claims 35 & 37, the cover is sufficiently large to cover an opening having the same shape (Fig. 5A e.g.,). As to claim 36, the cover is mounted to the bracket, wherein when in a closed position, an edge of the cover may abut an edge of the opening depending upon the size and shape of the non-positively claimed “opening” as best understood by the examiner. As to claim 38, the bracket may be shaped such that the axis can be disposed within the housing and at least a portion of the bracket may pass through

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the opening when the bracket pivots depending upon the size and shape of the non-positively claimed "housing" & "opening" as best understood by the examiner. As to claim 39, a "second" biasing member (viewed as magnets 50 – note explanation above) adapted to be coupled between the bracket and the housing, whereby the door is held in a closed position via the member, the door can be urged to an open position by a force exerted on a back surface [such as the force by an object on the surface opposite the surface referenced as number "40"], and the member will restore the door to the closed position when the force is removed as outlined above [depends on the type of device [not claimed] how far the door is moved, etc., as best understood by the examiner.

#### ***Allowable Subject Matter***

5. Pending further review and consideration, Claims 6, 11-12 & 22 are allowed.
6. Claims 4-5, 7, 9-10, 14 & 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments filed March 8, 2004 have been fully considered but they are not persuasive as relating to the Moore citation. As such, it is viewed that applicant's remarks are adequately addressed within the body of the rejection. Lastly, concerning the "means for elastically mounting" limitation [claim 29], the examiner has taken the position that although invoking the 112(6) clause, the recitation is being viewed as a generic member or equivalent that can mount the cover to the bracket

elastically in the spirit of the specification provided. The examiner is not totally convinced that the "biasing member 310" [as remarked by application] located on the bracket, embodies the claimed limitation since the member must be used in conjunction with the channel 404 formed by members 406 & 408 on the cover to form the structure upon which the cover is able to be mounted to the bracket and function as claimed. However, since applicant is of the opinion that just a "member" is required to interpret and thereby satisfy the clause, the examiner has obliged and set forth a "member".

#### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

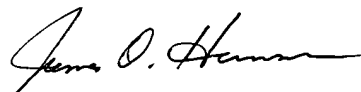
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
June 9, 2004